

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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EMTEK (SHENZHEN CO., LTD., a foreign
limited liability company,

Plaintiff,

v.

WAIAN LLC, OWEN S. WONG and
EMTEK INTERNATIONAL LLC,

Defendants.

Case No. 2:19-cv-00927-GMN-EJY

ORDER

Before the Court is Plaintiff's Motion to Compel Discovery and Request for Sanctions (ECF No. 41) filed on August 13, 2020. As of the date of this Order, no response to the Motion was filed.

The U.S. District Court for the District of Nevada Local Rule 7-2(b) establishes that the response to Plaintiff's Motion was due on or before August 27, 2020. Local Rule 7-2 also makes the following clear: "The failure of an opposing party to file points and authorities in response to any motion, ..., constitutes a consent to the granting of the motion." Defendants' failure to oppose or otherwise respond to Plaintiff's Motion is consistent with much of the detailed factual history provided by Plaintiff in its discussion of the procedural background of this case. ECF No. 41 at 4-7. The Court adopts this procedural history as it is well supported by evidence and is unopposed by Defendants.

Given Defendants' failure to oppose Plaintiff's Motion, and that Fed. R. Civ. P. 33 and 34 each require responses within 30 days of such discovery being served, the Court finds Defendants have consented to Plaintiff's Motion. The Court further finds that, pursuant to Fed. R. Civ. P. 37(a)(5), Plaintiff is properly awarded its reasonable attorney's fees and costs associated with bringing its Motion to Compel.

Accordingly,

1 IT IS HEREBY ORDERED that Plaintiff's Motion to Compel Discovery and Request for
2 Sanctions (ECF No. 41) is GRANTED.

3 IT IS FURTHER ORDERED that Defendants shall respond to Plaintiff's Interrogatories,
4 without asserting objections as all such objections are waived, no later than 21 days from the date of
5 this Order.

6 IT IS FURTHER ORDERED that Defendants shall respond to Plaintiff's Requests for
7 Production of Documents, without asserting objections as all such objections are waived, no later
8 than 21 days from the date of this Order.

9 IT IS FURTHER ORDERED that Plaintiff is awarded its reasonable attorney's fees and costs
10 associated with bringing the Motion to Compel.

11 IT IS FURTHER ORDERED that Plaintiff shall, within 14 days of the date of this Order,
12 submit a memorandum, supported by affidavit of counsel, establishing the amount of attorneys' fees
13 and costs incurred as addressed in this Order. The memorandum shall provide a reasonable
14 itemization and description of work performed, identify the attorney(s) or staff member(s)
15 performing the work, the customary fee of the attorney(s) or staff member(s) for such work, and the
16 experience, reputation and ability of the attorney performing the work. The attorney's affidavit shall
17 authenticate the information contained in the memorandum, provide a statement that the bill has
18 been reviewed and edited, and a statement that the fees and costs charged are reasonable.

19 IT IS FURTHER ORDERED that Defendants shall have five (5) days from service of the
20 memorandum of costs and attorney's fees, in which to file a responsive memorandum addressing
21 the reasonableness of the costs and fees sought, and any equitable considerations deemed appropriate
22 for the Court to consider in determining the amount of costs and fees that should be awarded.

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24 Dated this 31st day of August, 2020

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26 
27 ELAYNA J. YOUCHAK
28 UNITED STATES MAGISTRATE JUDGE